

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

QWEST CORPORATION,

Plaintiff/Counter-Defendant,

v.

CIV 10-0617 RB/KBM

CITY OF SANTA FE,

Defendant/Defendant-Counter-Plaintiff.

ORDER DENYING CITY'S MOTION TO SHOW CAUSE

THIS MATTER comes before the Court on Defendant's Motion to Show Cause and to Impose Sanctions (*Doc. 181*). Having reviewed the parties' submissions and relevant authorities, I find that Defendant's Motion is not well-taken and should be denied.

Defendant's Motion concerns the expert opinion, offered first in the form of a Declaration and subsequently in an Initial Report, of William Fitzsimmons, Ph.D. on behalf of Plaintiff. *See Docs. 164, 191*. I have previously ruled on the adequacy of Plaintiff's discovery responses concerning Dr. Fitzsimmons' report at least three times. *See Docs. 125, 164, 191*. Most recently, I allowed Defendant to determine the full factual basis of Dr. Fitzsimmons' opinions in his deposition, to be taken at Plaintiffs' expense. *See Doc. 191*.

Defendant offers no new information or evidence in support of its Motion, which asks the Court to strike Dr. Fitzsimmons' expert opinion. I agree with Plaintiff that many of Defendants arguments are appropriate only in the context of a *Daubert* motion. The Motion is merely a transparent rehashing of Defendant's previous arguments for discovery sanctions. I find that this issue has been ruled on, and the Motion should have been withdrawn.

Wherefore,

IT IS ORDERED THAT Defendant's Motion to Show Cause and to Impose Sanctions

(Doc. 181) is **denied**.

A handwritten signature in black ink, appearing to read "Karen B. Moynihan", is written above a horizontal line.

UNITED STATES CHIEF MAGISTRATE JUDGE